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| 09/915,301 | 07/27/2001 | Glenn E. Riggs | 6065/1 | 5817 |

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| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/915,301 | RIGGS ET AL. | |
| | Examiner | Art Unit | |
| | Susanna M. Diaz | 3623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *12 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1. This Non-Final Office action is responsive to Applicant's Petition for Withdrawal of Restriction Requirement and Request for Complete Office Action, both filed on April 12, 2004.

The restriction requirement is withdrawn at present.

Claims 1-45 are presented for examination.

### *Claim Objections*

2. Claims 14, 21, and 22 are objected to because of the following informalities:

Claim 14, line 2: The acronyms MSDS and TSR should be written out, at least the first time each is referenced in the claims.

Claim 21, line 3, delete "ths", insert --the--

Claim 22, delete "shipments", insert --shipment--

Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-25 recite a system in the preamble of the claims; however, the body of the claims solely recites various modules. In light of the disclosure in the specification, the various modules are understood to be software modules. Until these software modules are expressly recited as executed by hardware (e.g., a computer, processor, etc.), the modules are deemed to be software *per se*, which is non-statutory subject matter under 35 U.S.C. 101.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-31, 33, 35, 38, 40, 42, and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-25 recite a system in the preamble of the claims; however, the body of the claims solely recites various modules. In light of the disclosure in the specification, the various modules are understood to be software modules. Software modules *per se* do not qualify as elements of a system. Instead, a system must comprise at least two physical hardware elements.

Claims 2 and 4 recite various functionality without expressly reciting which system elements perform the respectively functionality. A system claim is defined by its structural limitations and there is no structure associated with the

functionality in question; therefore, it is not clear what structural elements are responsible for performing the functionality recited in claims 2 and 4.

Claim 14 recites the acronyms MSDS and TSR in line 2 of the claim. While MSDS seems to be a commonly used acronym in the art for Material Safety Data Sheets, TSR does not appear to be recognized as a term of art. Generically, information is gathered regarding one's transportation safety records; however, this type of information includes any data relating to the safety of a given form/mode of transportation. There is no specific definition of art associated with TSR to Examiner's best knowledge; therefore, the intended metes and bounds of TSR information, as recited in claim 14, are unclear.

Claims 26-31 recite the creation of various abstracts, including "an electronic abstract of a contract" (claim 26, line 9), "an/the electronic abstract of the response" (claim 27, lines 2 and 3-4), "an electronic abstract of the proposal" (claim 31, line 2), "the electronic abstract received from the potential carriers" (claim 31, line 4), and "the electronic abstract" (claim 31, lines 7-8). It is not clear what the distinctions are among all of the recited electronic abstracts. It is not even clear what an electronic abstract comprises *per se*. As best understood by the Examiner (based on paragraphs 35, 37, and 39 of the specification), the abstract provides any summary view of various data fields/values/inputs associated with a RFQ or contract. The confusion of the various recitations of an abstract is further amplified by antecedent basis issues. For example, there is no antecedent basis for "the response" in lines 2 and 4 of claim 27 and "the electronic abstract received from the potential carriers" in line 4 of claim 31. In

lines 7-8 of claim 31, it is not clear to which previous recitation of an electronic abstract "the electronic abstract" refers.

Additionally, as per claims 26-31, the order in which the various electronic abstracts are sent and received is confusing. For example, claim 26 recites the step of "creating an electronic abstract of a contract between the shipper and the selected carrier for the shipment of goods identified in the proposal," thereby implying that a finalized contract has been established between a shipper and selected carrier; however, dependent claim 31 recites the steps of "sending an electronic abstract of the proposal to the potential carriers," "evaluating responses to the electronic abstract received from the potential carriers," and "selecting one of the potential carriers for the [shipment] on the basis of the responses to the electronic abstract." It is unclear when the final selection of a carrier is made and how many back-and-forth communications between the shipper and potential carriers are made before the final selection occurs. Furthermore, is the recited contract a finalized contract or merely a tentative bid?

It is not understood what word or phrase is supposed to precede "on the basis" in line 7 of claim 31, thereby rendering the limitation in question vague and indefinite. In other words, what is the potential carrier selected *for* on the basis of the responses to the electronic abstract and the carrier information? For examination purposes, the Examiner will assume that the missing phrase is "shipment."

Claim 33 recites the limitation "the scheduled shipment of goods" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For

examination purposes, claim 33 will be interpreted as dependent from claim 32 instead of claim 31.

Claim 35 recites the limitation "one of said plurality of different transport modes" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, claim 35 will be interpreted as dependent from claim 32 instead of claim 31.

Claim 38 recites the limitation "one of said plurality of different transport modes" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, claim 38 will be interpreted as dependent from claim 32 instead of claim 31.

Claim 40 recites the limitation "one of said plurality of different transport modes" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, claim 40 will be interpreted as dependent from claim 32 instead of claim 31.

Claim 42 recites the limitation "one of said plurality of different transport modes" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, claim 42 will be interpreted as dependent from claim 32 instead of claim 31.

Claim 44 recites the limitation "one of said plurality of different transport modes" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, claim 44 will be interpreted as dependent from claim 32 instead of claim 31.

Appropriate correction is required.

*In light of the numerous rejections of the claims under 35 U.S.C. § 112, 2nd paragraph, the following art rejections reflect Examiner's best understanding of the claimed invention.*

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 2, 8, 10-13, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Lettich et al. (US 2002/0049622). Please note that, upon careful review, the Examiner has determined that paragraphs 161-175 of Lettich (US 2002/0049622) are not expressly supported by the provisional application (Application No. 60/200,035) to which Lettich claims priority; therefore, these particular paragraphs are only granted a priority date of April 26, 2001 (the filing date of Lettich's non-provisional application). However, the remaining disclosure of Lettich is granted priority back to April 27, 2000 (the filing date of Lettich's provisional application), thereby antedating the claimed invention.

Lettich discloses an integrated logistics system for managing the shipments of goods supplied from a plurality of different shippers by a plurality of carriers, said system comprising:

[Claim 1] a purchasing module evaluating proposals by shippers for respective shipments of goods and awarding contracts for the shipments to the plurality of carriers (¶¶ 96, 110-130, 183, 199);

an optimization module analyzing the proposals and informing the purchasing module if an opportunity exists for at least some of the shipments to be consolidated, in which case at least one contract awarded by the purchasing module is for a consolidated group of the shipments (¶¶ 110-131, 183, 199);

a contract administration module maintaining information relating to the status of proposals received and contracts awarded by the purchasing module (¶¶ 110-130, 183, 199);

a scheduling module scheduling shipments according to the awarded contracts (¶¶ 196, 199);

a shipment management module tracking the status of shipments awarded by the purchasing module and scheduled by said scheduling module (¶¶ 132, 200, 201); and

a financial module authorizing payments according to the status of shipments tracked by the shipment management module (¶¶ 187-188, 195, 222, 249, 285);

[Claim 2] wherein the plurality of carriers includes ship owners and the logistics system includes a tanker planning module (¶¶ 250, 252, 264, 266);

[Claim 8] further comprising a carrier management module which tracks the performance of carriers and generates ratings of the carriers (¶¶ 89, 123, 135, 140, 183);

[Claim 10] wherein the carrier management module receives metric requirements from the contract administration module (¶¶ 89, 94, 115, 123, 135, 140, 158, 183);

[Claim 11] wherein the carrier management module receives exception information indicating shipment problems from an exception queue in the shipment management module (¶¶ 89, 94, 115, 123, 135, 140, 158, 183);

[Claim 12] further comprising a regulatory module collecting information from other modules of the system and providing reports related to health and safety or governmental regulations (¶¶ 89, 94, 115, 123, 135, 140, 158, 183);

[Claim 13] wherein the purchasing module blocks an award of a shipment to a carrier according to information maintained in the regulatory module (¶¶ 89, 94, 115, 123, 135, 140, 158, 183);

[Claim 24] wherein the scheduling module receives electronic data from a shipper for a shipment and forwards said data to the corresponding carrier via a distributed communications network and XML (¶¶ 90, 179, 196, 199);

[Claim 25] wherein the scheduling module matches and synchronizes the timing of notification, booking or offer of the shipment with the carrier and automatically notifies the shipper that the shipment has been confirmed (¶ 199).

9. Claims 26-28, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Blalock et al. (US 2001/0047284).

Blalock discloses a method of arranging for the shipment of goods by one of a plurality of carriers, said method comprising:

[Claim 26] maintaining carrier information relating to each one of said plurality of carriers in a centralized logistics system (¶¶ 54, 69, 83, 146, 147, 177-189);

receiving a proposal for the shipment of goods supplied from a shipper, said proposal including shipping information relating to the shipment of the goods and transaction information relating to the contract terms for the shipment (¶¶ 58, 59, 61, 101, 104);

evaluating the proposal to select a carrier from among said plurality of carriers (¶¶ 60-62); and

creating an electronic abstract of a contract between the shipper and the selected carrier for the shipment of goods identified in the proposal (¶¶ 60-62, 150);

[Claim 27] further comprising creating an electronic abstract of the response received from the selected carrier and confirming selection of the selected carrier with the shipper using the electronic abstract of the response (¶¶ 60-62, 150);

[Claim 28] wherein the carrier information includes qualification information for each one of the plurality of carriers (¶¶ 54, 69, 83, 146, 147, 177-189);

[Claim 31] further comprising sending an electronic abstract of the proposal to the potential carriers (¶¶ 59-62, 104, 150);

evaluating responses to the electronic abstract received from the potential carriers, said responses including shipping information supplied by the carrier relating to the shipment of the goods or transaction information relating to the contract terms for the shipment (¶¶ 59-62, 104, 150);

selecting one of the potential carriers for the [shipment] on the basis of the responses to the electronic abstract and the carrier information maintained in said centralized logistics system (¶¶ 54, 59-62, 69, 83, 104, 150).

10. Claims 32-34, 38, and 40 are rejected under 35 U.S.C. 102(a) as being anticipated by Webmodal's intermodal shipping service, as disclosed in Hickey ("A Perfect Match") and "Webmodal Names Sam F. Niness III Vice President of Business Development." As stated in Hickey, Webmodal's intermodal shipping service was launched in June of 2000, moving test loads since June 1, 2000 (¶ 5).

Webmodal discloses a method of arranging for the shipment of goods from an origin to a destination, said method comprising:

[Claim 32] retrieving routing information for a plurality of different transport modes (Hickey: ¶¶ 2, 5; "Webmodal Names...": ¶¶ 4, 8);

retrieving carrier information relating to each one of a plurality of different carriers for each one of said plurality of different transport modes (Hickey: ¶¶ 2, 5; "Webmodal Names...": ¶¶ 4, 8);

determining a routing for the shipment of goods from said origin to said destination based on said retrieved routing information (Hickey: ¶¶ 2, 5; "Webmodal Names...": ¶¶ 4, 8); and

scheduling, via a computer network, the shipment of goods from said origin to said destination based on said carrier information (Hickey: ¶¶ 2, 5; "Webmodal Names...": ¶¶ 4, 8);

[Claim 33] wherein the scheduled shipment of goods from said origin to said destination is scheduled to use at least two different transport modes (Hickey: ¶¶ 2, 5; "Webmodal Names...": ¶¶ 4, 8);

[Claim 34] wherein the scheduled shipment of goods is arranged using a third party logistics system (Hickey: ¶ 5; "Webmodal Names...": ¶ 5);

[Claim 38] wherein one of said plurality of different transport modes comprises rail transport (Hickey: ¶ 7; "Webmodal Names...": ¶ 8);

[Claim 40] wherein one of said plurality of different transport modes comprises containership transport (Hickey: ¶ 7 -- An ocean carrier is interpreted as a type of containership transport).

### *Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 3, 5-7, 9, 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lettich et al. (US 2002/0049622), as applied to claims 1 and 8 above, in view of Rojek ("How Baxter Improved Data Exports"). Please note that, upon careful review, the Examiner has determined that paragraphs 161-175 of Lettich (US 2002/0049622) are not expressly supported by the provisional application (Application No. 60/200,035) to which Lettich claims priority; therefore, these particular paragraphs are only granted a priority date of April 26, 2001 (the filing date of Lettich's non-provisional application). However, the remaining disclosure of Lettich is granted priority back to April 27, 2000 (the filing date of Lettich's provisional application), thereby antedating the claimed invention.

[Claim 3] Lettich discloses a tanker planning module that includes a partitioned database storing collaborative data relating to shippers, freight forwarders and ship owners (¶¶ 183, 198, 204, 233, 244, 250, 252, 256, 264, 266). Lettich utilizes databases and data marts that partition data subsets and provide controlled access to certain data. All of Lettich's transaction details are documented in its database system and Lettich discloses collaboration among shippers, freight forwarders, and ship owners; therefore, it is understood that Lettich's database system stores collaborative data relating to shippers, freight forwarders and ship owners. Lettich fails to expressly teach that the disclosed databases are relational *per se*; however, Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support system that would store shipping transaction data and provide detailed

performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier performance data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Lettich's partitioned database with a partitioned relational database to store collaborative data relating to shippers, freight forwarders, and ship owners, such that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9).

[Claim 5] Lettich discloses various databases, including a data mart, that store operations data received from the shipment management module and commercial data received from the financial module (¶¶ 183, 187-188, 195, 198,

201, 222, 249, 285); however, Lettich does not expressly disclose use of a data warehouse. Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support system that would store shipping transaction data and provide detailed performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier performance data as well as other shipping transaction-related data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Lettich's data mart with a data warehouse database to store its operations data received from the shipment management module and commercial data received from the financial module, such that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance

trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9).

[Claim 6] Lettich teaches the use of a data mart that "includes extensive data mining capabilities, including data collection, data storage, data sorting and data retrieval and analysis, such as carrier performance, cost analysis and historical learning" (¶ 183). It is well understood in the art that these types of data mining capabilities (as utilized by Lettich) lend themselves to selecting, filtering, aggregating and repackaging operations data and commercial data to generate data mining, metrics and predetermined reports, and customizable reports since analysis, such as carrier performance, cost analysis, and historical learning are facilitated. What Lettich does not expressly teach is the use of a data warehouse to perform this functionality, yet Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support system that would store shipping transaction data and provide detailed performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier

performance data as well as other shipping transaction-related data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Lettich's data mart with a data warehouse to select, filter, aggregate and repackage operations data and commercial data to generate data mining, metrics and predetermined reports, and customizable reports, such that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9).

[Claim 7] Lettich's databases can be segregated and access to various segments of the database can be securely controlled (¶¶ 198, 204), which is indicative of a front end interface offering secured access and controlled transfer between the database in computer readable format. Again, Lettich does not expressly teach the use of a data warehouse; however, Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support system that would store shipping transaction data and provide detailed performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down

and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier performance data as well as other shipping transaction-related data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Lettich's secure databases with a data warehouse module that includes a front end interface offering secured access and controlled transfer between the data warehouse module in computer readable format, such that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9) in a secure environment.

[Claim 9] Lettich's carrier management module receives shipping information. (¶¶ 89, 123, 135, 140, 183). Access to users of the ShipChem.com site is granted via a front end interface (¶¶ 198, 204). However, Lettich does not expressly teach the use of a data warehouse; yet, Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support

system that would store shipping transaction data and provide detailed performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier performance data as well as other shipping transaction-related data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Lettich's carrier management module to receive its information from the front end interface of a data warehouse module so that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9).

[Claims 15-17] Following the line of reasoning presented in the discussion of claims 3, 5-7, and 9 above, the Examiner asserts that Lettich's shipment management module includes a database logging and storing all of the shipment records of the shipments awarded by the purchasing module and scheduled by said scheduling module (¶¶ 110-130, 183, 199) (claim 15), a data management tool managing the viewing and/or updates of the data in the database in a secure change environment (¶¶ 183, 198, 202) (claim 16), and receives information from the shipper and carrier for each shipment, the contract administration module, and the scheduling module (¶¶ 110-130, 183, 199) (claim 17). Lettich fails to expressly teach that the disclosed databases are relational *per se*; however, Rojek outlines the details of how Baxter Export "decided to create a data warehousing and decision support system that would store shipping transaction data and provide detailed performance analysis" (¶¶ 1, 5). Users can submit queries against a data warehouse of shipping transaction data. These queries are run against a relational data (¶ 6). This data storage arrangement allows user to "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction." (¶ 7) Another benefit is the creation of a uniform standard that facilitates comparison of performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (¶ 9). Lettich too provides a data mart for data mining carrier performance data (¶ 183); therefore, the Examiner asserts that it would have been obvious to one of

ordinary skill in the art at the time of Applicant's invention to enhance Lettich's shipment management module-related database with a relational database (as per claims 15-17) so that users can more easily and effectively "analyze aggregate data at a very high level, while having the capability of drilling down and analyzing data at the level of the actual shipping transaction" (as taught by Rojek, ¶ 7) and compare performance data among international shippers "by creating an accurate, globally recognized standard, [such that] performance trends can be normalized and compared over time so that objective decisions can be made" (as taught by Rojek, ¶ 9).

[Claim 18] Lettich's shipment management module receives or computes position data to audit and/or calculate current information on detention and to validate charges for detention (¶¶ 132, 137, 138);

[Claim 19] Lettich's shipment management module computes inventory data to calculate the position and amount of inventory in the shipments tracked by the shipment management module (¶¶¶ 82, 94, 97, 131, 132, 137, 194, 200, 201).

[Claim 20] Lettich's shipment management module provides information on the location and status of equipment of a given shipper or carrier (¶¶¶ 82, 131, 132, 200, 201, 203).

[Claim 21] In the rejection of claim 15 above, the Examiner addresses the obviousness of modifying Lettich to incorporate a relational database. The same line of reasoning applies to the relational database recited in claim 21. Furthermore, Lettich does not expressly teach that "the shipment management module includes an audit system allowing changes to shipment records in the

relational database to be controlled and tracked per audit protocols and viewing of the history and changes made to/during a shipment." However, the Examiner takes Official Notice that it is old and well-known in the art of databases to maintain a history of changes that were made to information stored in a database. This practice helps to verify the integrity of data and updates made to the data. The Lettich-Rojek combination teaches the storage of shipment records in a relational database; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify Lettich's shipment management module such that it "includes an audit system allowing changes to shipment records in the relational database to be controlled and tracked per audit protocols and viewing of the history and changes made to/during a shipment" in order to help verify the integrity of shipment data and updates made to this data. This is especially important since Lettich promotes the secure storage of company-specific data (¶¶ 198, 204).

[Claim 22] Lettich's shipment management module forwards an electronic authorization for payments to the financial module according to the shipment records in the relational database (¶¶ 185, 235, 249).

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lettich et al. (US 2002/0049622) in view of Rojek ("How Baxter Improved Data Exports"), as applied to claim 3 above, and further in view of GoCargo's shipping services, as disclosed in "Internet Services: Here's a List." Please note that,

upon careful review, the Examiner has determined that paragraphs 161-175 of Lettich (US 2002/0049622) are not expressly supported by the provisional application (Application No. 60/200,035) to which Lettich claims priority; therefore, these particular paragraphs are only granted a priority date of April 26, 2001 (the filing date of Lettich's non-provisional application). However, the remaining disclosure of Lettich is granted priority back to April 27, 2000 (the filing date of Lettich's provisional application), thereby antedating the claimed invention.

[Claim 4] As discussed in the rejection of claim 3 above, the Lettich-Rojek combination teaches that access to each partition in the relational database is selectively controlled and managed; however, this combination fails to expressly teach that contracts between shippers and ship owners can be awarded by the purchasing module without revealing the confidential information of one party to the other. However, GoCargo makes up for this deficiency in its teaching of secure bidding services. For example, "carriers can't see other carriers' bids and shippers can't see other shippers' information. On spot-market negotiations, shipper can mask [identity] to see if he can get a better rate with a carrier he already uses." (¶ 5) In other words, GoCargo enables shippers and carriers (i.e., analogous to the recited ship owners) to negotiate contracts without revealing confidential information of one party (e.g., identity of the shipper) to the other (e.g., the carrier, which is analogous to the recited ship owner). Lettich discloses that a preferred carrier may be a ship (¶ 207). As discussed above, Lettich also facilitates contract negotiates among shippers and carriers, such as ships;

therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the Lettich-Rojek combination such that contracts between shippers and ship owners can be awarded by the purchasing module without revealing the confidential information of one party to the other in order to allow shippers to mask their identities to see if they can get better rates with carriers they already use, as taught by GoCargo.

14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lettich et al. (US 2002/0049622), as applied to claim 12 above, in view of Challener ("Environmental Software Incorporates Internet Capabilities"). Please note that, upon careful review, the Examiner has determined that paragraphs 161-175 of Lettich (US 2002/0049622) are not expressly supported by the provisional application (Application No. 60/200,035) to which Lettich claims priority; therefore, these particular paragraphs are only granted a priority date of April 26, 2001 (the filing date of Lettich's non-provisional application). However, the remaining disclosure of Lettich is granted priority back to April 27, 2000 (the filing date of Lettich's provisional application), thereby antedating the claimed invention.

[Claim 14] Lettich's regulatory module accesses Material Safety Data Sheets (MSDS) from "shared information between users and suppliers of shipping and logistics services, operations and products" (¶¶ 94, 192). Lettich fails to expressly teach that Transportation and Safety Record (TSR) information is gathered as well; however, however, these differences are only found in the non-

functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.* Nevertheless, Lettich reports on the safety records of various entities in the supply chain and "manages transportation risk management programs and works closely with its customers to ensure chemical transportation risks are minimized" (¶ 158). Lettich also "performs a root cause failure analysis to determine cause of the incident [should a transportation incident occur]" (¶ 160). As a matter of fact, Lettich "provides hazardous material training and certifying to all employees determined to be 'HAZMAT employees' [and] provides shipping documents that meet HAZMAT transportation requirements and determines compliance through audits and assessments" (¶ 159). Lettich even "issues reports on audit findings and takes action on any action findings that determine safety or quality concerns exist" (¶ 140). Clearly, Lettich is concerned with ensuring that its service providers meet its customers' safety requirements. Official Notice is taken that it is old and well-known in the art of transportation to assess a carrier's performance based on its transportation and safety record information. Lettich comprehensively assesses the safety record of its service providers (e.g., shippers and carriers); therefore, the

Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Lettich to measure shipper and carrier performance based not only on Material Safety Data Sheets (MSDS), but also on Transportation and Safety Record (TSR) information in order to enhance the comprehensive nature of Lettich's performance audits and assessments.

Furthermore, Lettich does not expressly teach that the MSDS or TSR information is accessed through the Enterprise Resource Planning software of a shipper; however, Challener makes up for this deficiency in its teaching of Web technology for accessing MSDS information fed from a company's ERP system (¶¶ 14, 17). "The use of Web technology reduces MSDS tracking and labor costs -- since all MSDSs are up to date, accurate and in compliance -- while increasing speed and uniformity," cites Challener (¶ 14). Lettich and Challener are both directed toward ensuring compliance with safety regulations; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Lettich's regulatory module to access the MSDS and TSR information maintained in the Enterprise Resource Planning software of a shipper in order to reduce safety compliance tracking costs by providing quick and efficient access to safety-related information (as suggested by Challener), such as MSDS and TSR information.

15. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lettich et al. (US 2002/0049622), as applied to claim 1 above. Please note that, upon careful review, the Examiner has determined that paragraphs 161-175 of

Lettich (US 2002/0049622) are not expressly supported by the provisional application (Application No. 60/200,035) to which Lettich claims priority; therefore, these particular paragraphs are only granted a priority date of April 26, 2001 (the filing date of Lettich's non-provisional application). However, the remaining disclosure of Lettich is granted priority back to April 27, 2000 (the filing date of Lettich's provisional application), thereby antedating the claimed invention.

[Claim 23] Lettich facilitates negotiations among shippers and carriers (see at least ¶ 115), yet Lettich's contract administration module does not expressly permit minor changes to a contract awarded by the purchasing module by coordinating change requests and change response messages between the shipper and the carrier. However, Official Notice is taken that it is old and well-known in the art of contract management and negotiations to allow the negotiating parties to make minor changes to an awarded contract subject to approval of all negotiating parties. This allows all involved parties to quickly and efficiently address unanticipated situations arising in association with the contract. Lettich's invention serves to more efficiently expedite the overall shipping process; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Lettich's contract administration module to permit minor changes to a contract awarded by the purchasing module by coordinating change requests and change response messages between the shipper and the carrier in order to allow all involved parties to quickly and efficiently address unanticipated

situations arising in association with the contract. For example, carriers may suddenly be faced with impossible delivery deadlines due to circumstances outside of their control (e.g., extremely bad driving conditions due to a hurricane, a shortage in production of the requested product to be delivered, etc.). Subsequent contract negotiations facilitate acceptable arrangements among all involved parties when these types of unanticipated and uncontrollable scenarios occur.

16. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blalock et al. (US 2001/0047284), as applied to claim 28 above.

[Claims 29, 30] Blalock maintains carrier profile data with information regarding the qualifications of a carrier. For example, carriers may be searched based on their DOT safety ratings (¶ 189), yet Blalock does not expressly teach that the qualification information indicates the ability of the plurality of carriers to ship different categories of goods, including chemicals. However, Blalock's shippers have varying shipping requirements. Furthermore, Official Notice is taken that it is old and well-known in the art of shipping to ship different categories of goods, including chemicals. Also, it is old and well-known that many types of hazardous substances, including chemicals, require shipment by a carrier that is trained in handling and transporting the given substance. This increases the likelihood of the safe delivery of hazardous substances. Blalock does maintain DOT safety ratings of the carriers, thereby implying its concern

with the safety-related qualifications of carriers; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Blalock's carrier qualification information to indicate the ability of the plurality of carriers to ship different categories of goods (claim 29), wherein the different categories of goods includes chemicals (claim 30, in order to increase the likelihood of the safe delivery of hazardous substances, such as chemicals.

17. Claims 35-37, 39, and 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webmodal's intermodal shipping service, as disclosed in Hickey ("A Perfect Match") and "Webmodal Names Sam F. Niness III Vice President of Business Development," and as applied to claims 32 and 34 above. As stated in Hickey, Webmodal's intermodal shipping service was launched in June of 2000, moving test loads since June 1, 2000 (¶ 5).

[Claims 35-37, 42-45] Webmodal facilitates freight move scheduling among a plurality of different transport modes, including railroads, drayage companies, and ocean carriers (Hickey: ¶ 7), yet Webmodal does not expressly teach that the available plurality of different transport modes further comprises truck transport (e.g., truck carriers, truck load carriers, and less than truckload carriers), bulk tanker transport, and air freight. However, Official Notice is taken that each of these types of transport modes is old and well-known in the art of shipping. By expanding the range of transport options available to a customer, the customer has greater odds of locating shippers who can ultimately deliver

freight to a wider range of destinations at more competitive prices. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Webmodal to incorporate more transport mode options, wherein one of said plurality of different transport modes comprises truck transport (claim 35), wherein said carrier information includes information relating to bulk truck carriers, truck load carriers, and less than truckload carriers (claim 36), wherein said shipment is scheduled using information unique to truck transport (claim 37), wherein one of said plurality of different transport modes comprises bulk tanker transport (claim 42), wherein said shipment is scheduled using information which is unique to bulk tanker transport (claim 43), wherein one of said plurality of different transport modes comprises air freight (claim 44), and wherein said shipment is scheduled using information which is unique to air freight (claim 45) in order to provide improved service to its customers by providing the customers with greater odds of locating shippers who can ultimately deliver freight to a wider range of destinations at more competitive prices.

[Claim 39] Webmodal's shipment is scheduled using information which is unique to rail transport (Hickey: ¶ 7; "Webmodal Names...": ¶ 8).

[Claim 41] Webmodal's shipment is scheduled using information which is unique to containership transport (Hickey: ¶ 7 -- An ocean carrier is interpreted as a type of containership transport).

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Goldwerger et al. (US 2003/0216993, which claims priority to Provisional Application No. 60/154,773) -- Discloses an online service contract negotiation service for shippers and carriers.

Fox (WO 01/59652 A2) -- Discloses a system for negotiating terms of a charter contract between a cargo carrier and shipper.

Crane et al. (CA 2337656 A1) -- Discloses an automated system for scheduling intermodal freight transportation.

Aragon ("Union Pacific Railroad Goes Full Steam Ahead") – Discloses the use of a data warehouse and relational database to store shipment data and generate shipment-related reports.

"Atrion International Acquires CHEMTOX® System and Database" -- Discloses the integration of material safety data sheets (MSDS) with an enterprise resource planning (ERP) system.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, Virginia 22313-1450**

or faxed to:

| | |
|---|---|
| **(703)305-7687** | [Official communications; including After Final communications labeled "Box AF"] |
| **(703)746-7048** | [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"] |

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.

Susanna Diaz

Susanna M. Diaz
Primary Examiner
Art Unit 3623
August 18, 2004

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